

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
JUNE 5, 2001 - 7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Housh, Hovland, Kelly, Masica and Mayor Maetzold.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Kelly and seconded by Member Hovland approving the Council Consent Agenda as presented.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**RESOLUTION NO. 2001-37 COMMENDING VALLEY VIEW MIDDLE SCHOOL STUDENTS** Mayor Maetzold explained that sixth-grade students at Valley View Middle School have instituted a plastic bottle collection program thereby diverting a recyclable resource from landfills. Their efforts resulted in the collection of a cart of bottles daily.

**Member Masica introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2001-37**

**WHEREAS, the sixth grades at Valley View Middle School observed that plastic drink bottles were being thrown into the garbage and not recycled; and**

**WHEREAS, the students instituted a plastic bottle collection in a specially designed container; and**

**WHEREAS, the sixth grade students volunteered and monitored the collection of the plastic bottles for recycling during the lunch hour; and**

**WHEREAS, the efforts of the sixth grade students resulted in a cart of plastic bottles being collected daily; and**

**WHEREAS, the Edina Recycling and Solid Waste Commission requested the City Council recognize the endeavors of the Valley View Middle School Sixth Grade Class.**

**NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Edina hereby commends the Valley View Middle School Sixth Grade for their diligence in preserving our resources by undertaking this recycling project which diverts a recyclable resource from landfills.**

**Adopted this 5<sup>th</sup> day of June 2001.**

Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**\*MINUTES OF THE REGULAR MEETING OF MAY 15, 2001, APPROVED** Motion made by Member Kelly and seconded by Member Hovland approving the Minutes of the Regular Meeting of May 15, 2001.

Motion carried on rollcall vote - five ayes.

**RESOLUTION 2001-41, VACATION APPROVED FOR EASEMENT AT EDEN CIRCLE** Affidavits of Notice were presented, approved and ordered placed on file.

Engineer Hoffman explained that the re-development in Grandview Square requires the vacation of the Eden Circle public right-of-way. Mr. Hoffman noted that Xcel Energy, Reliant Energy, time Warner and Qwest did not have objections to the vacation of Eden Circle. He added that the easement should be allowed with the requirement that new access be provided to the City well located in the re-configured Sherwood Park.

Member Masica asked how the well was currently accessed. Mr. Hoffman replied that currently there was an asphalt driveway which will be removed and replaced with a geo-grid driveway that will be covered with sod.

**Member Housh made a motion to close the public hearing.** Member Masica seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold  
Motion carried.

**Member Housh introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2001-41**

**RESOLUTION APPROVING VACATION OF  
EDEN CIRCLE PUBLIC RIGHT-OF-WAY**

**WHEREAS, a motion of the City Council, on the 18<sup>th</sup> day of April, 2001, fixed a date for a public hearing on a proposed vacation of the Eden Circle public right-of-way; and**

**WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on June 5, 2001, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and**

**WHEREAS, the Council deems it to be in the best interest of the City and of the public that said vacation be made; and**

**WHEREAS, the Council considered the extent the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove or otherwise attend thereto;**

**NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota, that the following described Eden Circle public right-of-way easement is hereby vacated effective as of June 5, 2001:**

**A 50-foot right-of-way, the centerline of which is described as follows:**

**"Commencing at a point on the Easterly line of Sherwood Road, said point being 25-feet South of the Southwest corner of Lot 3, Block 1, Edenmoor Addition; thence Easterly parallel to and 25 feet Southerly of the South line of said Lot 3 a distance of 80 feet to a point of curve to the right, having a radius of 70 feet and a central angle of 90 degrees; thence along the arc of said curve to the right a distance of 109.96 feet to the end of said curve; thence South and tangent to the last described curve a distance of 12.51 feet to a point of curve to the left having a radius of 70 feet and a central angle of 90 degrees; thence along the arc of said curve a distance of 109.96 feet to the end of said curve; thence Easterly to a point on the Easterly line of Edenmoor**

Addition, said point being 177.51 feet South of the Southeast corner of Lot 1, Block 1, Edenmoor Addition, said point being the termination point of the roadway."

BE IT FURTHER RESOLVED that said vacation does not affect, and there are continued, reserved, and retained, by the said resolution ordering the vacation, the following existing easements and authority in, on and under the above vacated area: The authority of Xcel Energy Company, Qwest Communications, Time Warner Cable Minnesota, or Reliant Energy to enter upon the above vacated area for the maintenance, replacement, repair and removal of and for otherwise attending to, underground conduit, manholes, cables, wires and poles required for utility service now in, on or under the above vacated area.

BE IT FURTHER RESOLVED, that the City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.

Passed and adopted this 5<sup>th</sup> day of June, 2001. Member Kelly seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

ALLEY EXTENSION DENIED FOR IMPROVEMENT NO. A-103, ALLEY EXTENSION BETWEEN MINNEHAHA BOULEVARD AND HALIFAX AVENUE Affidavits of Notice were presented, approved and ordered placed on file.

#### Staff Presentation

Assistant City Engineer Houle briefly reviewed the recommended proceedings for improvements undertaken via Minn. Stat. 429. He explained the City had received a petition from five of seven residents requesting an alley improvement in the 5200 block between Halifax Avenue and Minnehaha Boulevard. The Council received the feasibility study and set the public hearing at their May 17, 2001, meeting.

Mr. Houle explained that the proposed improvement would consist of adding a bituminous paved extension of an existing alley that accessed West 52<sup>nd</sup> Street. The petition requested that the addition be graded and graveled only. However, Public Works Department policy is that all public alley improvements be either concrete or bituminous pavement. Mr. Houle said the existing paved alley is bituminous. If constructed the alley would be twelve feet wide, need minimal grading; and consist of three inches of pavement over eight inches of aggregate base. He estimated the project cost at \$15,000 and said if ordered the project would be funded through special assessments of the benefited property owners of approximately \$2,200 each. The length of the assessment would be ten years. If the improvement is moved forward the following schedule would be followed: Bid Opening, July 2001; Award Contract July 2001; Construct Alley, August 2001; and finally adopt special assessments, fall of 2001.

Mr. Houle added that 43 percent of the affected residents signed the original petition. He has heard from five of the residents expressing concern regarding the project. Minnehaha Boulevard residents said: they do not want additional traffic behind their home; a resident wanted to see the alley extended to West 54<sup>th</sup> Street, a resident did not want to see any improvements to the alley; and one resident who was out of town asked the hearing be continued until he arrived home. Halifax Avenue residents have stated the area is a public

## Minutes/Edina City Council/June 5, 2001

right-of-way; they should have the right to use the alley; and they would like to build a garage with alley access. Mr. Houle noted that a letter from Mr. Orrin Broberg had been faxed to the City on June 4, 2001, opposing and alley improvement, and asking that his name be withdrawn from the previously signed petition.

### Public Comment

Steve Domke, 5236 Halifax Avenue, stated he has a one-car garage. Mr. Domke said parking in winter was an issue because of winter parking rules. Mr. Domke would like to build a garage that could be accessed from the alley. He added he has attempted to reach Duncan McCampbell who has verbally said he favored the alley, but has not received any written confirmation to date. Mr. Domke said when he purchased his home he checked to see if the alley behind the home was a legal alley. Mr. Domke said that the vegetation that has been cleared behind the homes was done by NSP after the storm three years ago. Member Hovland asked how often Mr. Domke used the alley. Mr. Domke explained he used the alley daily and had been doing for a little over two years. He added he has a jeep and was able to drive over the snow, etc.

Alice Mortenson, 5233 Minnehaha Boulevard, said she checked with the City 36 years ago when she purchased her home. Ms. Mortenson stated she was told the alley would only be developed if all the residents agreed to it. She said the alley was used by children to walk to the park. Ms. Mortenson said she did not feel the alley should be improved. Someone who wanted the alley improved has removed bushes and applied chemicals to the vegetation. This was a concern because the residents on Minnehaha Boulevard who have wells. Member Hovland asked how far the backs of the homes were from the alley and if fences exist. Ms. Mortenson replied the homes are between 35 and 40 feet from the alley and some residents have fences, but not all of them.

Member Housh asked if the houses were not currently served by City water, where would the lines run if installed in the future. Mr. Houle said the location of future water lines would be determined by the location of the existing wells.

Max Hintz, 5241 Minnehaha Boulevard, stated he was very opposed to the petitioned alley improvement. It would change the character of the neighborhood. He added the use by some residents had already changed the neighborhood's character. Mr. Hintz said the vegetation growing in the alleyway was part of the reason he purchased his house. He said he did not want the alley improved because of safety, aesthetics and because he believed it will be detrimental to house values. Mr. Hintz noted that all the Minnehaha residents were opposed to the alley improvement. He said that he believed the wells were all located in the back yards and asked why an improvement would be done for the convenience of a few. Mr. Hintz asked if the alley was still a valid right-of-way since it had not been used. Attorney Gilligan explained an alley right-of-way is not abandoned or vacated by non-use. The alley in question would still be right-of-way.

Laurie Buck Brown, 5240 Halifax Avenue, stated she supported the petition. She explained that her home is a Cape Code with a single car garage. They have two cars and a long narrow driveway. The only option they would have of expanding their garage would be

through the alley. She asked approval of the improvement allowing her the luxury of choosing to improve her garage.

Mike Brown, 5240 Halifax Avenue, added his support of the alley improvement.

Virginia Broberg, 5229 Minnehaha Boulevard stated she did not support the alley. Mrs. Broberg said there would be no benefit to the resident along Minnehaha Boulevard.

Phil Enger, 5301 Minnehaha Boulevard, stated his house was a double lot directly south of the petition area. Mr. Enger said he did not want the aesthetics changed in the existing alley.

**Member Hovland made a motion, seconded by Member Masica to close the public hearing.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Masica acknowledged the issue was difficult because the residents were divided almost equally in favor and against the improvement. She said she would be inclined to allow the petitioners to prevail and go ahead with the improvement.

Member Housh disagreed, stating that the residents had not brought any consensus to the Council. He added the homeowners purchased their home in the existing conditions. Member Housh stated he would not support the proposed improvement to the alley.

Member Hovland said he agreed that the issue was difficult because it affects all the residents. However, he added he could not see any benefit to the residents along Minnehaha Boulevard. The petitioners did not have neighborhood consensus either which made him unable to support the proposed improvement.

Mayor Maetzold agreed with Members Hovland and Housh, and stated he did not want to assess residents for an improvement with no benefit to their properties. He added that an alley improvement was more different than a sidewalk, which might be improved because of safety concerns.

Member Hovland asked about potentially vacating the alley. Mr. Hughes stated vacations of public easements and right-of-way was usually done by petition.

**Member Kelly made a motion to reject the petition and not improve the alley.** Member Housh seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**RESOLUTION 2001-45 ADOPTED ORDERING SOUND ABATEMENT IMPROVEMENT NO. SA-1, T.H. 169 EAST SIDE - BRENDAN GLENN PLAT AND SOUND ABATEMENT IMPROVEMENT NO. SA-2, T.H. 169 ADJACENT TO INDIAN WAY WEST** Affidavits of Notice were presented, approved and ordered placed on file.

Staff Presentation

## Minutes/Edina City Council/June 5, 2001

Engineer Hoffman noted the City Council had a public hearing on the proposed project SA-1 consisting of 690 feet of sound abatement wall installed on along T.H. 169 just north of Brendan Glenn. That hearing was continued to June 5, 2001 to allow the petitioners on Indian Way West inclusion in the construction project. On May 15, 2001, the City Council authorized taking bids and preparing a special assessment roll for both projects. Mr. Hoffman said the sound abatement wall would be a structure ten feet high made of concrete. He showed a graphic depicting the stone columns in such a wall and explained that the stone columns were bid as an alternative. Mr. Hoffman explained the desired action would be to order the improvement and adopt the assessment roll at the same time. This would allow any objections to be discovered before construction.

Mr. Hoffman reported the bids came in slighter higher than originally anticipated because of the requirement for caulking to be done to enhance the sound reduction. The project without the alternative stone columns is approximately \$125,000.00 The stone columns would be \$2,000,00 each as an add-on to the project. It is anticipated that 15 or 16 columns would be needed spaced at 100-foot intervals to span the entire project area including the Brendan Glenn area. Mr. Hoffman said the neighborhood's initial reaction to the stone columns was mixed. He said the residents would like to see the City contribute to this addition in some way.

Member Hovland said he personally felt the aesthetic value of the columns quite high and would like to see if this could be viewed as a model for the rest of the community. Member Hovland commented the neighbors have done quite a bit on their own, but who would pay for the columns was still an open issue with him.

Member Housh asked if any legislation funding sound walls had moved forward. Mr. Hoffman replied that he to his knowledge nothing had been enacted and furthermore, it would not be an issue dealt with during the special session.

Member Housh asked how much sound abatement would be achieved with a ten foot wall height. Mr. Hoffman answered that building a wall higher than ten feet was felt to be cost prohibitive for the neighbors. The ten-foot height provides adequate sound abatement coverage for automobile traffic, but will not cover truck traffic.

Member Masica commented she liked the look of the columns and felt the City should consider funding their construction as the city's participation in the project.

### Public Comment

Jean Wangard, 6804 Indian Hills Road, explained that three years ago she and her neighbors got together a petition then went to the State and came to the City. This triggered a study of the issue, after which the neighbors realized that it would take too long to wait for any state aid and that the City did not have the funds to construct sound walls. Therefore, residents decided they would be willing to pay for construction of the proposed wall and worked with the Engineering Department to develop the petition. The neighbors brought a consensus from 15 of the 18 property owners (one owner owns both sides of a twin home) to the City requesting the project go forward and proposing a funding formula. Mrs. Wangard reported that only one resident declined to sign the petition. Mrs. Wangard thanked Fran Hoffman for

his work on this matter and urged the Council to order the improvement. She expressed concern that controversy over the stone columns could stall the construction. Mr. Wangard stated she belief that the residents were at their limit for financial commitment and could not afford the columns.

Peter Petersen, 6815 Indian Hill Road, stated he supports the construction of the sound walls, but felt the City should pay for the columns if it was decided they needed to be included in the project.

Tom Crouch, 6740 Indian Way West, said he supported the wall; and he and his neighbors were willing to pay for the wall's installation, but not for the columns. Mr. Crouch explained that they had already installed a fence five years ago, then landscaped their cul de sac, and pond so paying for the columns would be too much.

Tom Aldrich, 6444 Aldrich Lane, said he favor the construction and asked that the project be ordered.

Emily Buchwald, 6808 Margarets Lane, explained she was a 34-year resident and has seen the traffic increase steadily. The increased traffic has affected her property values and the proposed concrete wall seems a good way to address this issue.

Sue Seckinger, 4912 Sunnyside Road, stated this was not the only sound abatement issue in Edina. Ms. Seckinger said that if this wall were setting the standard for the community care should be taken. She noted that the cement wall project before the Council works for the neighborhood, but cautioned that other areas may proposed a twenty-foot wooden frame fence. Ms. Seckinger asked what would define a majority, who would determine funding levels. Mayor Maetzold acknowledged Ms. Seckinger's concerns. He explained the project currently before the Council had been petitioned for by the neighbors and that the neighbors had presented a funding formula they agreed to before coming to the City.

Sheila Hipp, 6442 Margarets Lane, added her support to the project. Ms. Hipp noted the steady increase in traffic over the last eight years have added noise and dirt to the area.

Dick Wald, 6440 Margarets Lane, stated that is his opinion the standard for the fence had already been set when the Council approved the design submitted by the developer of Brendan Glenn. He urged Council approve the project.

Jean Wangard, 6804 Indian Hills Road, stated the issue should not be the style of the fence, rather just building the fence. She said the home at 6800 Indian Hills Road was up for sale, but buyers were waiting to see if the wall would be constructed.

Tom, Doherty, 4911 Sunnyside Road, noted that Edina was already very dissected by the various highways. He felt that he and his neighbors were realistic in the money they were willing to spend and were just waiting for a decision from the Council.

Jean Wangard, 6804 Indian Hills Road stated that her neighborhood was following the directions given by the Council three years ago when they were told that if they wanted

## Minutes/Edina City Council/June 5, 2001

sound abatement, they should figure out a funding formula and petition the City. Ms. Wangard urged approval of the sound abatement projects.

### **Member of Member Hovland, seconded by Member Kelly to close the public hearing.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

### Council Discussion

Mayor Maetzold asked if the projects could be built with the City paying for the stone columns. Mr. Hoffman said the Council could decide what part of any improvement they would fund. He added that at this point he would recommend the Council order the improvement, but wait until July 17, 2001 to adopt any assessment roll. This would allow final costs to be known and the necessary waivers from the residents to be filed with the City.

Member Housh asked if the developer's portion of the wall was already built and if so, could the columns be added. Mr. Hoffman noted that the developer of Brendan Glenn had been the first one to be required to build a sound abatement wall. He said that the columns could be added after the initial walls were built.

Member Hovland said he believed that many neighborhoods were working this same issue. He commended Ms. Wangard's neighborhood for their work in bringing the current project to the Council. He said he believed the standard had been set when the City Engineer suggested a particular design. Member Hovland said he would not want to see twenty-foot wooden walls, and that he would support the City funding the construction of the stone columns for the entire project.

Member Masica agreed the City should pay for the columns in this project. However, she did not agree that by ordering this project no other designs could be considered. Member Masica stated that in her opinion each area should be reviewed and a decision made based upon what would be best suited to the area.

Member Housh said he agreed that each area should be reviewed independently of the others from a design standpoint. He added that for this project he was not convinced that the columns were necessary. He added he was agreeable to the concrete walls without the pillars as per the neighbors' consensus.

Member Kelly stated he agreed with Member Housh on the columns. He said that to other residents who were looking for direction for their neighborhoods he offered the following: 1) more property owners that would be assessed by the project should support the project than not support the project; 2) a formula for equitable funding of the projects from the neighborhood should be presented. Member Kelly added that he would also favor looking at potential designs on a case by case basis to ascertain what would best suit each neighborhood. Member Kelly commended the neighbors for their work.

Mayor Maetzold agreed with Member Kelly that each area should be viewed individually, but he added that he supported Members Hovland and Masica desire to build the wall with the stone columns to be paid for by the City.



Member Masica made introduced the following resolution and moved its adoption ordering the project as proposed with the inclusion of the stone columns at the City's expense:

**RESOLUTION NO. 2001-32  
ORDERING SOUND WALL IMPROVEMENTS  
NO. SA-1 AND SA-2**

WHEREAS, the Edina City Council on the 3rd of April, 2001, fixed a date for a Council hearing on the proposed sound abatement walls, Improvement No. SA-1 and Improvement No. SA-2; and

WHEREAS, fourteen days' mailed notice and two weeks' published notice of the hearing was given, and the hearing was held thereon on the 5<sup>th</sup> day of June 2001, for Improvement No. SA-1 consisting of a sound abatement wall constructed along the 690 feet north of the Brendan Glenn Plat adjacent to T.H. 169 and for Improvement No. SA-2 consisting of a sound abatement wall along T.H. 169 adjacent to Indian Way West.

NOW, THEREFORE, BE IT RESOLVED that the Council has duly considered the views of all persons interested, and being fully advised of the pertinent facts, does hereby determine to proceed with the construction of said improvement, including all proceedings which may be necessary in eminent domain for the acquisition of necessary easements and rights hereby designated and shall be referred to in all subsequent proceedings as. Improvement No. SA-1 consisting of a sound abatement wall constructed along the 690 feet north of the Brendan Glenn Plat adjacent to T.H. 169 and for Improvement No. SA-2 consisting of a sound abatement wall along T.H. 169 adjacent to Indian Way West.

BE IT FURTHER RESOLVED that Improvement No. Improvement No. SA-1 consisting of a sound abatement wall constructed along the 690 feet north of the Brendan Glenn Plat adjacent to T.H. 169 and Improvement No. SA-2 consisting of a sound abatement wall along T.H. 169 adjacent to Indian Way West is hereby ordered as proposed.

BE IT FURTHER RESOLVED that the City Engineer is hereby designated as the engineer for this improvement. The engineer shall cause plans and specifications to be prepared for the making of such improvement.

BE IT FURTHER RESOLVED that the City Council will hold a hearing to consider the special assessment for the aforementioned improvement at its regular meeting on July 17, 2001.

Passed and adopted this 5<sup>th</sup> day of June 2001. Member Hovland seconded the motion.

Rollcall

Ayes: Hovland, Masica, Maetzold

Nays: Housh, Kelly

Motion carried on a 3-2 vote.

**\*RESOLUTION NO. 2001-44 ADOPTED APPROVING LOT DIVISION FOR CBS REAL ESTATE PARTNERSHIP - 4555 AND 4565 WEST 77<sup>TH</sup> STREET** Motion made by Member Kelly and seconded by Member Hovland approving the following resolution:

**RESOLUTION NO. 2001-44  
A RESOLUTION APPROVING**

**A LOT DIVISION FOR 4555 AND 4565 WEST 77<sup>TH</sup> STREET**

WHEREAS, the following described property is at present a single tract of land:

Tract B, REGISTERED LAND SURVEY NO. 1682, Hennepin County, Minnesota; and

WHEREAS, the owner has requested the subdivision of said tract into separate parcels (herein called "parcels") described as follows:

PARCEL A:

That part of Tract B, REGISTERED LAND SURVEY NO. 1682, according to the recorded survey thereof, Hennepin County, Minnesota, lying southerly of a line described as beginning at the most westerly southwest corner of said Tract B; thence on an assumed bearing of East along a south line of said Tract B and its easterly extension a distance of 304.20 feet to the east line of said Tract B and there terminating.

PARCEL B:

That part of Tract B, REGISTERED LAND SURVEY NO. 1682, according to the recorded survey thereof, Hennepin County, Minnesota, lying northerly of a line described as beginning at the most westerly southwest corner of said Tract B; thence on an assumed bearing of East along a south line of said Tract B and its easterly extension of 304.20 feet to the east line of said Tract B and there terminating.

WHEREAS, the requested subdivision is authorized under Code Section 810 and it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina will create an unnecessary hardship and said newly created Parcels as separate tracts of land do not interfere with the purpose of the Subdivision and Zoning Regulations as contained in the Edina City Code Sections 810 and 850;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of the above described tracts of land (PARCEL A and PARCEL B) as separate tracts of land are hereby approved and the requirements and provisions of Code Sections 850 and 810 are hereby waived to allow said division and conveyance thereof as separate tracts of land but only to the extent permitted under Code Sections 810 and 850 subject to the limitations set out in Code Section 850 and said Ordinances are now waived for any other purpose or as to any other provisions thereof, and further subject, however, to the provision that no further subdivision be made of said Parcels unless made in compliance with the pertinent Ordinances of the City of Edina or with the prior approval of this Council as may be provided for by those Ordinances.

Adopted this 5<sup>th</sup> day of June 2001.

Motion carried on rollcall vote - five ayes.

\*HEARING DATE SET OF JUNE 19, 2001, FOR PLANNING MATTERS Motion made by Member Kelly and seconded by Member Hovland for the following planning matters:

1. Final Rezoning - Noonan Construction Company, 5400 France Avenue
2. Final Rezoning and Final Plat - Amendment to comprehensive Plan - JMS Development and Thorpe Real Estate, 6512 Vernon Avenue

Motion carried on rollcall vote - five ayes.

RESOLUTION NO. 2001-45 - FINAL PLAT APPROVED FOR GRANDVIEW SQUARE SECOND ADDITION

Planner Larsen explained that the property was located south of Eden Avenue and east of Sherwood Circle. Phase II of Grandview Square would complete the platting of the entire development. Included are outlots remaining from Phase I as well as three properties not controlled at the time of the original approval—the Edina Pet Hospital, the Classic Hair Design and the Noonan Office Building. The plat will provide a lot for the library/senior center building, a lot for the second condominium building, and an outlot for

the rearranged Sherwood Park. The Council at their May 15, 2001 meeting approved the preliminary plat for the plat.

**Member Kelly introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2001-45**

**RESOLUTION APPROVING**

**FINAL PLAT FOR GRANDVIEW SQUARE 2<sup>ND</sup> ADDITION**

**BE IT RESOLVED** by the City Council of the City of Edina, Minnesota, that that certain plat entitled, "GRANDVIEW SQUARE 2<sup>ND</sup> ADDITION", platted by the Edina Housing and Redevelopment Authority and the City of Edina, and presented at the regular meeting of the City Council on June 5, 2001, be and is hereby granted final plat approval.

**Passed this 5<sup>th</sup> day of June 2001.** Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Resolution adopted.

**RESOLUTIONS NO. 2001-35 AND NO. 2001-36 AND ORDINANCE NO. 2001-4, ADOPTED, RESCINDING ORDINANCE NO. 2000-11 AND NO. 2000-12, AWARDING CABLE TELEVISION FRANCHISES** Manager Hughes reminded the Council on December 19, 2000, they adopted ordinances granting WideOpenWest Minnesota LLC and Everest Minnesota Licensee LLC franchises to operate cable television systems within the City. Last March, the City received letters from WideOpenWest and Everest stating that they would be unable to pursue the installation of cable systems at the present time and requested therefore that the franchise ordinances previously approved by the City be rescinded. The attached resolutions and Ordinance No. 2001-04 rescind Ordinance No. 2000-11 and Ordinance No. 2000-12 which granted the subject franchises.

**Member Hovland introduced the following resolution seconded by Member Masica:**

**RESOLUTION NO. 2001-35**

**RESCINDING CABLE COMMUNICATIONS FRANCHISE**

**ORDINANCE GRANTED TO**

**WIDOPENWEST MINNESOTA, LLC**

**WHEREAS**, in April 2000, WideOpenWest Minnesota, LLC ("WideOpenWest") requested that the City of Edina, Minnesota ("City") commence proceedings under Minn. Stat. § 238.081 to consider the grant of a cable television franchise ("Franchise") to WideOpenWest; and

**WHEREAS**, in response to WideOpenWest's request, the City undertook all necessary steps required by Minn. Stat. § 238.081 to consider the grant of a Franchise; and

**WHEREAS**, in accordance with Minn. Stat. § 238.081 subd. 6, the City adopted a resolution determining that WideOpenWest possessed the requisite legal, technical and financial qualifications to operate a cable television system within the City; and

**WHEREAS**, the City and WideOpenWest subsequently conducted negotiations and arrived at mutually acceptable terms and conditions for a Franchise; and

**WHEREAS**, on December 19, 2000, the City adopted an Ordinance granting WideOpenWest a Franchise to own and operate a cable system within the City subject to acceptance by WideOpenWest; and

**WHEREAS**, on March 23, 2001, the City received a written letter from D. Craig Martin, Esq., of WideOpenWest informing the City of WideOpenWest's inability to accept the Ordinance granting a Franchise due to adverse market conditions; and

**NOW, THEREFORE BE IT RESOLVED**, the City of Edina, Minnesota hereby resolves that Ordinance No. 2000-12, granting a Franchise to WideOpenWest is hereby rescinded in its entirety; and

**BE IT FURTHER RESOLVED** that the process undertaken by the City pursuant to Minn. Stat. § 238.081 is hereby completed as it relates to WideOpenWest's request for a Franchise; and

**BE IT FURTHER RESOLVED**, in the event WideOpenWest should seek a Franchise from the City it must reinitiate the statutory procedure required under Minn. Stat. § 238-081, as well as negotiate with the City mutually acceptable terms and conditions for a new Franchise.

Approved this 5<sup>th</sup> day of June 2001.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Resolution adopted.

**Member Hovland introduced the following resolution seconded by Member Masica:**

**RESOLUTION NO. 2001-36**

**RESCINDING CABLE COMMUNICATIONS FRANCHISE**

**ORDINANCE GRANTED TO EVEREST MINNESOTA LICENSEE, LLC**

**WHEREAS**, in April 2000, Everest Minnesota Licensee, LLC ("Everest") requested that the City of Edina, Minnesota ("City") commence proceedings under Minn. Stat. § 238.081 to consider the grant of a cable television franchise ("Franchise") to Everest; and

**WHEREAS**, in response to Everest's request, the City undertook all necessary steps required by Minn. Stat. § 238.081 to consider the grant of a Franchise; and

**WHEREAS**, in accordance with Minn. Stat. § 238.081 subd. 6, the City adopted a resolution determining that Everest possessed the requisite legal, technical and financial qualifications to operate a cable television system within the City; and

**WHEREAS**, the City and Everest subsequently conducted negotiations and arrived at mutually acceptable terms and conditions for a Franchise; and

**WHEREAS**, on December 19, 2000, the City adopted an Ordinance granting Everest a Franchise to own and operate a cable system within the City subject to acceptance by Everest; and

**WHEREAS**, on March 9, 2001, the City received a written letter from Michael L. Deggendorf on behalf of Everest informing the City of Everest's inability to accept the Ordinance granting a Franchise due to adverse market conditions; and

**NOW, THEREFORE BE IT RESOLVED**, the City of Edina, Minnesota, hereby resolves that Ordinance No. 2000-11, granting a Franchise to Everest is hereby rescinded in its entirety; and

**BE IT FURTHER RESOLVED**, that the process undertaken by the City pursuant to Minn. Stat. § 238.081 is hereby completed as it relates to Everest's request for a Franchise; and

**BE IT FURTHER RESOLVED**, in the event Everest should seek a Franchise from the city, it must reinitiate the statutory procedure required under Minn. Stat. § 238.081, as well as negotiate with the City mutually acceptable terms and conditions for a new Franchise.

Approved this 5<sup>th</sup> day of June 2001.

**Member Hovland introduced the following ordinance, seconded by Member Masica:**

**EDINA ORDINANCE NO. 2001 - 4**

**An Ordinance Rescinding Previously Enacted Ordinances of the City of Edina.**

**The City Council of the City of Edina Ordains:**

**Section 1.** Ordinance No. 2000-11 granting a Franchise to Everest Minnesota Licensee, LLC is hereby rescinded in its entirety.

**Section 2.** Ordinance No. 2000-12 granting a Franchise to WideOpenWest is hereby rescinded in its entirety.

**Section 3.** The process undertaken by the City of Edina pursuant to Minn. Stats. § 238-081, is hereby completed as it relates to WideOpenWest and Everest Minnesota Licensee, LLC requests for a Franchise.

**Section 4.** This ordinance shall be in full force and effect upon adoption.

Adopted this 5<sup>th</sup> day of June 2001.

Attest

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**BID FOR SOUND ABATEMENT IMPROVEMENT PROJECTS SA-1 AND SA-2  
APPROVED, CONTRACT 01-06 (ENGINEERING) CONTINUED TO JUNE 19, 2001**

Engineer Hoffman explained the bid for decorative pre-cast sound barriers, (improvement numbers SA-1 and SA-2) along McCauley Trail from the north line of Brendan Glenn Plat to north line of 6453 McCauley Trail and McCauley Trail (west side) between south line of 6737 Indian Way West to north line of 6617 Indian Way West will be financed through special assessments to abutting neighbors who have petitioned for these improvements.

Following a brief discussion, Council consensus was to continue the award of bid to June 19, 2001, allowing staff to discuss the addendum further with the contractors.

**\*BID AWARDED FOR ASPHALT REPAIR - WATER MAIN BREAKS** Motion made by Member Kelly and seconded by Member Hovland for award of bid for asphalt repair for water main breaks to recommended low bidder, Asphalt Contractors, Inc., at \$32,800.00.

Motion carried on rollcall vote - five ayes.

**\*BID AWARDED FOR COMPUTER SOFTWARE UPGRADES** Motion made by Member Kelly and seconded by Member Hovland for award of bid for computer software upgrades to Software House International, under State Contract No. 425551, at \$25,144.65.

Motion carried on rollcall vote - five ayes.

**\*RESOLUTION NO. 2001-39 - AOL/TIME WARNER TRANSFER OF CONTROL** Motion made by Member Kelly and seconded by Member Hovland approving the following resolution:

**RESOLUTION NO. 2001-39  
APPROVING THE ACCEPTANCE OF THE RESOLUTION  
APPROVING THE TRANSFER OF CONTROL OF  
KBL CABLESYSTEMS OF THE SOUTHWEST, INC.,  
THE CABLE TELEVISION FRANCHISEE, TO  
AOL TIME WARNER**

**WHEREAS**, the City of Edina, Minnesota ("City") passed and adopted Resolution No. 2000-46, approving the transfer of control of KBL Cablesystems of the Southwest, Inc., to AOL Time Warner ("Franchisee") subject to certain specified criteria including, but not limited to, the receipt of a signed Acceptance upon thirty (30) days of the date of the transfer closing.

**WHEREAS**, AOL Time Warner inadvertently failed to execute and forward a signed Acceptance upon thirty (30) days of the date of the transfer closing as required.

NOW, THEREFORE, the City Council for the City resolves as follows:

1. The City hereby extends the thirty (30) day requirement required in Resolution No. 2000-46 Section 3 (c) until July 31, 2001.

This Resolution shall take effect and continue and remain in effect from and after the date of its passage, approval, and adoption.

Motion carried on rollcall vote - five ayes.

**\*RESOLUTION NO. 2001-38 - ADOPTING JOINT AND COOPERATIVE AGREEMENT FOR USE OF LAW ENFORCEMENT PERSONNEL AND EQUIPMENT - HENNEPIN COUNTY CHIEF'S OF POLICE ASSOCIATION MUTUAL AID PACT** Motion made by Member Kelly and seconded by Member Hovland approving the following resolution:

**RESOLUTION NO. 2001-38**

**A RESOLUTION ADOPTING THE  
JOINT AND COOPERATIVE AGREEMENT  
FOR USE OF LAW ENFORCEMENT PERSONNEL  
AND EQUIPMENT OF JULY 1, 2001**

WHEREAS, the City of Edina and Hennepin County has previously approved and participated in a mutual aid agreement between the police agencies within Hennepin County to provide cooperative use of police personnel and equipment; and

WHEREAS, such agreement was most recently approved by the Edina City Council July 25, 1968; and

WHEREAS, the participating governmental units have determined that it is advisable to clarify and update the language of that agreement.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Edina that the Joint and Cooperative Agreement for Use of Law Enforcement Personnel and Equipment, ("Agreement") dated July 1, 2001 from the Hennepin County Chief's of Police Association be approved; that the City of Edina is withdrawing from the previous Hennepin County Mutual Aid Agreement on the effective date in the new Agreement and that Michael J. Siitari is authorized and directed to execute said Agreement on behalf of the City of Edina as a participating member of the Agreement.

Passed by a vote of ayes and nays this fifth day of June 2001.

Motion carried on rollcall vote - five ayes.

**JOINT POWERS AND GROUND LEASE AGREEMENT FOR SOUTHWEST METRO PUBLIC SAFETY TRAINING CENTER CONTINUED TO JUNE 19, 2001**

Chief Scheerer explained the Southwest Metro Public Safety Training Center began back in 1994, with the concept of building a police and fire training facility jointly with Bloomington, Eden Prairie, Metropolitan Airport Commission (MAC) Police and Richfield. There has been a great need for this facility. A joint project would include a larger facility with better equipment, lower operating costs, 24 hours-a-day availability and standardized training exercises. Originally, a site in Bloomington was considered but it became unavailable. After much research, the old gun range site at Braemar Park was selected for several reasons, 1) a central location, 2) the site would be Edina's "in-kind" contribution towards construction cost of the facility, and 3) distance from residential areas, terrain, water supply and access.

The delay in construction has been due to the length of time taken to secure funding from the State of Minnesota. The consortium lobbied for State funding beginning in 1996. In the 1999 legislative session, a task force was funded to develop a statewide plan to determine the

location and funding of Public Safety Training Centers. In the 2000 legislative session, the state legislature approve \$500,000 for the South Metro Public Safety Training Center. In addition, in 2000, the City of Richfield opted out of the facility due to financial restraints.

Mr. Scheerer continued stating that in 2001, Bloomington, Eden Prairie, Edina and MAC were preparing to move forward and construct the training center with a completion date of late 2002.

A video was presented explaining the need for such a training center.

Components of the facility would include; 1) an indoor firing range for both short-range and long-range firearms, 2) a computer-controlled fire tower and residential structure, 3) classrooms, 4) driving simulator and 5) a computer controlled decision-shooting range.

Mr. Scheerer explained the organizational structure of the center would be through the proposed Joint Powers Agreement. The land would be owned by the City of Edina and leased to the other powers with a proposed Ground Lease Agreement. The cost of the facility (\$6.2 million, less \$0.5 million grant) would be divided as follows:

• Bloomington	42.5%	(\$2.5 million)
• Eden Prairie	22.9%	(\$1.3 million)
• Edina	20.0%	(\$1.2 million - includes \$950,000 for land)
• MAC (Police)	14.6%	(\$.85 MILLION)

The \$195,000 annual operating expenses would be divided by the same percentage. The construction expenditure for Edina would be \$200,000 - \$250,000, and funded through the Capital Improvement Plan. Edina's portion of the yearly operating expense (\$39,000) would come from savings in overtime, travel and training fees. The facility would also generate rental income that could be used to offset operating expenses or to fund capital improvements.

Mr. Scheerer said the need for the center has increased yearly as gun ranges have closed and live fire training eliminated. Both the Edina Police and Fire Departments have had a large turnover of personnel and newly hired staff have not been trained to the level of former new personnel. The Training Center had previously been supported by past Edina Councils through resolutions adopted in both 1997 and 1999. Mr. Scheerer recommended approval of the Joint Powers Agreement and the Ground Lease Agreement.

Police Chief Siitari said his focus would be on the gun range. The Police Department needs the gun range to accomplish their mission of 'protect and serve'. With the loss of the gun range four years ago, hand-gun skills have dramatically dropped. The Edina Police Department have been vagabonds for four years, and consider themselves fortunate to get four shoots in a year. Mr. Siitari noted recent incidents in the City establishing the need for proficient hand-gun training. He stated the proposal was the best we can hope for with the in-kind contribution. He said ultimately this proposal would be for the good of the residents, not the Police or Fire Departments.

## Minutes/Edina City Council/June 5, 2001

State Representative Erhardt indicated he was surprised to read the objections about the training facility in the Edina Sun-Current recently because the facility has been underway for approximately six years. He and Senator Terwilliger have worked with the Legislature to acquire funding for the facility and a number of out-state cities have followed suit. The facility was more important than any sports field because it concerns the safety of all of Edina. He reminded the Council that twice previously resolutions have been passed supporting the facility.

A facsimile dated June 6, 2001, was received from Mark Tesija, 7504 Hyde Park Drive, voicing concern with a shooting range being located close to his home.

### Council Comment

Member Kelly asked if the facility does not go forward, what would happen to the earmarked \$500,000 from the State Legislature. Chief Scheerer explained the dollars would go to the Commissioner of Public Safety and possibly to the general fund. Member Kelly asked if Maple Grove was trying to also build a training facility. Mr. Scheerer responded they do have a small facility but were seeking funding to enlarge it to include fire personnel. Representative Erhardt reiterated that Maple Grove does not have the room to build as large a facility as the one proposed for the Braemar gun range site.

Member Housh said while he saw the need for a training facility and was not opposed to it; other issues were pressing after the May 16<sup>th</sup> referendum failure. He suggested re-thinking the use of the area before pressing ahead with a training facility. He voiced surprise with how adamant the Park Board was against the training facility. Representative Erhardt said he found it strange too since this had been proposed for approximately six years.

Member Masica asked where the Police Department was currently taking firearm training. Chief Siitari replied the Department uses an Air Force range near the airport, when available. They have also used a small facility in Minneapolis and a location in St. Louis Park. Member Masica asked if any officers take training on their own, not as structured by the City, Mr. Siitari answered that the force's better shooters go on their own to private ranges. Member Masica asked how many acres were undeveloped in the Braemar Park area. Mr. Hughes said he did not know the exact acreage. Member Masica commended Mr. Hughes for the stellar job he has done putting the proposal together and negotiating for the City. Before the referendum, she said she was behind the facility proposal 1000%, but this property was one of the last developable pieces in Edina. Member Masica said she had been receiving calls about what the City was going to do now for recreational facilities for the residents. She believes the area needs further study.

Mayor Maetzold said the City was involved in many businesses, but the area where the most money was spent was public safety. He believes it imperative that Fire and Police personnel be highly trained. The training facility would be a good value for Edina and meets a critical need. The alternatives for recreational facilities have not gone away. Gymnasiums could be built adjacent or attached to Braemar Arena or the YMCA. He added that playing fields would be best located on School District property. Mr. Maetzold said calls to him have been in favor of bringing the issue back to the public in a 'different way'. The Blue Ribbon Committee said the proposed training facility property was not good for recreational uses.



Member Housh asked the issue be tabled to consider items in the referendum that would be of most importance. He said he viewed the Braemar area as a recreational area and asked again for the issue to be tabled.

Member Masica acknowledged the training center as a critical need for the Police and Fire Departments, but questioned whether the other involved cities might have more available land than Edina. She agreed the issue should be tabled and stated she would like more information from the Park Board and the general public.

Member Hovland said he recently conversed with one member of the Police Department and was told training was sporadic and done at a great distance from Edina. Member Hovland added that training for Police or Fire personnel was similar to military training, requiring frequent practice. Having the facility in Edina would be beneficial and a top priority. Member Hovland said he believed recreational needs could be met at other locations in the City and reminded the Council that the Edina City Council had given their word to our neighboring cities that the property would be used for the training facility. It did not seem honorable to back away from that commitment. He pointed out that Representative Erhardt had explained how hard he and Senator Terwilliger have worked to get to this point and the best use of the land would be for a training facility.

Member Kelly asked what the risk would be if the proposal were tabled for two to three months. Manager Hughes said he did not know what the conditions would be on the earmarked \$500,000. One possibility could be that one or more of the partners might fall out of the mix. He said he would rather the issue were delayed for two to three months than denied at this time.

Member Kelly asked if any of the interested cities have available land for a training facility. Manager Hughes explained if land exists, the cities have not been forthcoming with it. Mr. Kelly said he was not convinced that this decision could not be held for a few months.

Mayor Maetzold said this piece of land had not been considered for parkland. He voiced concern with building freestanding gymnasiums facilities. He said he hoped the whole park program did not depend on these three acres.

Member Hovland restated that he believes this facility would be the highest and best use for the property. Tabling this could give the signal that we intend to change our minds. The honorable thing to do would be to keep our promise to the other cities.

Director Keprios said the original use of the site was for a gun range and was donated by Dr. Whipperman, in memory of his son, to teach gun safety. Use of the facility for a gun range would be putting the site back into its originally intended use.

Mr. Scheerer reminded the Council that 1) this was park property, 2) other cities would love to have the facility in their city, but were unable to come up with a location, 3) building the facility in Edina was worth \$1,000,000 to the City and 4) \$40,000 operating costs would be a

## Minutes/Edina City Council/June 5, 2001

wash if it was in Edina, but would cost \$40,000 annually if the facility were built in another city.

Member Housh said the whole Council would like the facility built. Following the referendum loss, residents voiced concern with a School/City partnership to solve recreation issue. This meant also that City land was even more important. He suggested again tabling the issue for a couple of months allowing further study.

Mayor Maetzold said the Park and Recreation programs were functioning although they need more fields and gymnasiums. The Police and Fire Departments do not have a facility and cannot train as needed.

Member Housh asked if a consensus could be reached by the Council to work on recreational facilities for the community. He said if the issue was not tabled, he would not vote no. Member Hovland concurred and stated his wish to start work on recreational facilities for the community.

Member Kelly said three months delay would not kill this seven-year project. The previous Councils, of which he was a part, made a commitment. Based on the Park Board unanimously thinking the issue should be examined further, the issue should be tabled and all needs balanced before a decision was made.

Member Hovland said by tabling the issue, the wrong message was portrayed to the other players. He stated again that he believes the City's recreational needs could be met in other ways.

Mayor Maetzold concurred with Member Hovland and reminded the Council of the dollars the City would have to spend if the facility was built in another location.

Mr. Hughes added that if the facility were built in another location Edina would have to borrow the dollars possibly through a lease revenue bond. Attorney Gilligan explained that approximately five years ago the legislature got special legislation allowing up to one million dollars in general obligation bonds approved.

**Member Housh made a motion to table the approval until the regular Council meeting in August.** Member Kelly seconded the motion.

Member Masica said while she admires Member Hovland's integrity and sense of ethics this was a change in circumstances. She inquired whether the vacant land in the Braemar area could house a multi-purpose recreational center. Mr. Hughes said the property has a significant hill and while the developable area could possibly handle a multi-purpose center, parking would be problem. Additionally, the County just installed an 800 MHz tower at the pinnacle of the hill. He stated deep reservations regarding operating costs with creating a freestanding facility not attached to another building. Member Masica said if this issue was tabled, staff needs direction reflecting the Council's wishes. Member Kelly said the Council needs to direct staff to examine the alternatives for gymnasium and field space and to inform the public and the Park Board. Mr. Hughes indicated what he believed would be achievable

in a few months was an examination of the site and a decision of what alternative uses would fit on the site. He voiced concern with trying to replicate in two months, all the work the Blue Ribbon Committee did on the bigger issue such as "how does this site relate to other sites in the City". Member Kelly mentioned a few sites that could work for recreational facilities. Mr. Hughes explained those sites had been examined in the past. Mayor Maetzold asked if other sites could be examined in a broad perspective. Mr. Hughes said it took two years to bring this issue to a referendum, and bringing back a plan "b" in two months would be impossible. Member Housh voiced concern with losing the \$500,000. Chief Scheerer said he believed the dollars would be fine but the coalition would not. Mr. Hughes added loss of the dollars seems remote but he will talk to the other members of the coalition about a three-month delay. Member Kelly added that the need for a training facility was not going away. Member Hovland again stated that the need could not be met in any of the other cities. He asked if withdrawing the issue might be a better idea than tabling it.

**Member Housh withdrew his motion to table the issue of approving the Joint Powers and Ground Lease agreement for the South Metro Public Safety Training Center and asked postponement of the issue to the June 19, 2001, regular Council Meeting. Member Kelly seconded the motion.**

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**\*RESOLUTION NO. 2001-42 - AMENDED Mn/DOT AGREEMENT NO. 80359R  
APPROVED Motion made by Member Kelly and seconded by Member Hovland  
approving the following resolution:**

**RESOLUTION NO. 2001-42**

**A RESOLUTION**

**AMENDING Mn/DOT AGREEMENT NO. 80359R**

**NOW, THEREFORE, BE IT RESOLVED that the City of Edina enter into Mn/DOT Amended Agreement No. 80359R with the State of Minnesota, Department of Transportation for the following purposes:**

**To remove the existing traffic control signals and install new traffic control signals with street lights, emergency vehicle pre-emption and signing on Trunk Highway No. 100 West Ramps - Trunk Highway No. 100 West Frontage Roads at Industrial Boulevard - Industrial Boulevard/West 77<sup>th</sup> Street, on Trunk Highway No. 100 East Ramps - Trunk Highway No. 100 East Frontage Roads at West 77<sup>th</sup> Street - West 77<sup>th</sup> Street/Industrial Boulevard, and on West 77<sup>th</sup> Street at Pentagon Park Office - Private Drive; and install interconnect on West 77<sup>th</sup> Street/Industrial Boulevard from Metro Boulevard to Pentagon Park Office - Private Drive in accordance with the terms and conditions set forth and contained in Agreement No. 80359R, a copy of which was before the Council.**

**BE IT FURTHER RESOLVED that the proper City officers be and hereby are authorized to execute such agreement and any amendments, and thereby assume for and on behalf of the City all of the contractual obligations contained therein.**

**Adopted this 5<sup>th</sup> day of June 2001.**

Motion carried on rollcall vote - five ayes.

**WATER PRESENTATION DELAYED UNTIL FUTURE COUNCIL MEETING** The Council directed staff to bring the presentation on water back at a future meeting due to the late hour of the meeting.

**NEW WINE AND BEER LICENSE FOR BEAUJO'S LTD, (4950 FRANCE AVENUE SOUTH) APPROVED** Mr. Hughes explained that Beaujo's, Ltd., d.b.a. Beaujo's applied to the City for an on-sale wine and 3.2 beer license for a new business to be located at 4950 France Avenue. The applicant filed all necessary documentation for liquor licenses and paid the applicable license fees. The Planning Department reviewed the application and found that it complies with code requirements. The Health Department was satisfied with the applicants' plan for storage and service and had their food license for processing. The Police Department completed their investigation and found nothing negative with the process going forward.

**Member Kelly made a motion approving the new wine and beer license for Beaujo's, LTD, 4950 France Avenue South.** Member Housh seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

**\*RESOLUTION 2001-40 - APPROVING NO PARKING AT 76<sup>TH</sup> STREET AND YORK AVENUE APPROVED** Member Kelly introduced the following resolution, seconded by Member Hovland:

**RESOLUTION NO. 2001-40  
RELATING TO PARKING RESTRICTIONS ON  
WEST 76<sup>TH</sup> STREET FROM EDINBOROUGH WAY TO  
XERXES AVENUE - S.A.P. 120-136-15**

**THIS RESOLUTION** passed this 5<sup>th</sup> day of June 2001, by the City of Edina in Hennepin County, Minnesota. The Municipal Corporation shall hereinafter be called the "City",  
**WITNESSETH:**

**WHEREAS,** the "City", has planned the improvement of MSAS 136, W. 76<sup>th</sup> Street from Edinborough Way to Xerxes Avenue.

**WHEREAS,** the "City", will be expending Municipal Street Aid Funds on the improvement of this Street, and

**WHEREAS,** this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.

**NOW, THEREFORE, IT IS THEREBY RESOLVED** that the "City", shall ban the parking of motor vehicles on both sides of MSAS 136, W. 76<sup>th</sup> Street, at all times.

**Dated this 5<sup>th</sup> Day of June 2001.**

Motion carried on rollcall vote - five ayes.

**CONCERN OF RESIDENT** Ami Sharpe, 4132 West 45th Street voiced concern with the spraying of weeds in her neighborhood park - Kojetin Park. She questioned certain aspects of the turf management plan and stated that the use of 2,4-D is detrimental to anyone in its path. Ms. Sharpe asked the Council to direct the Park Department to stop the increased spraying and to include the Community Health Council in decisions regarding turf management. She asked when the turf management plan was modified that citizens would be notified.

Member Housh inquired of Park Director Keprios whether the turf management plan had been violated. Member Kelly said the Council voluntarily decided to depart from the plan because the parks were 90% weeds. Director Keprios commented that the City was somewhat in violation of the plan. Crews had been directed to spray "C" areas but were told to stay 50 feet away from all playground structures. Cornelia Park and Creek Valley will not be sprayed. He reiterated the most fiscally responsible thing to do was to spray since re-turfment was clearly not an option. Member Housh asked how long was the acceptable time to stay off a sprayed area. Director Keprios explained areas were posted before spraying to keep off the sprayed area for 24 hours. He said the City was extremely careful when they are spraying chemicals. Mayor Maetzold asked if organic herbicides could be used. Director Keprios said the department had tried organic herbicide but found it turned the grass brown and the long-term effects were not known. Member Masica asked again about the acceptable time to stay off a sprayed area. Director Keprios said it was recommended to stay off for one day.

Sanitarian Velde explained that 2,4-D was not on a list of carcinogens or suspected carcinogenic compounds. The National Pesticide Telecommunications Network, funded by the Environmental Protection Agency, wrote the half-life of 2,4-D in the soil was ten days. Member Housh asked if lawn services use 2,4-D. Mr. Velde answered that lawn services could be using many products for different uses; insect control, etc. but 2,4-D was used generally for broad leaf weeds.

Mr. Hughes said since the adoption of the turf management plan, the use of herbicides had decreased significantly on City property. He believes the City had been judicious in the use of herbicides.

Ms. Sharpe asked if "C" parks could be re-examined by the Community Health Committee. Mr. Hughes suggested Park and Recreation Department staff look at the turf management plan with regards to "C" classification parks and come back with suggestions to the Council.

**CONCERN OF RESIDENT** Ryan Langsev, 5801 Concord Avenue told of his concern over Metro Transit buses operating on Concord Avenue and South View Lane. He explained he had contacted both the School District and Metro Transit to complain about the buses. Metro Transit informed him that Edina Schools and the City of Edina has approved the South View Middle School Park and Ride. Mr. Langsev reported that Doug Johnson of Edina Schools has written to Metro Transit rescinding the District's permission to locate a park and ride at South View. He requested the City take similar action.

Maria Fesenmaier, 5713 Concord Avenue, President of ECC Neighborhood Association also expressed her concern about the bus route.

Following a brief discussion, **Member Kelly introduced the following resolution and moved its adoption:**

**RESOLUTION NO. 2001-43**

**WHEREAS, the Metro Transit had located a park and ride facility at Edina School District's South View Middle School located at 4725 South View Lane; and**

Minutes/Edina City Council/June 5, 2001

WHEREAS, Metro Transit had routed buses to accommodate this park and ride location over South View Lane and Concord Avenue; and

WHEREAS, Concord Elementary School, South View Middle School and Normandale Elementary School are all located in close proximity to the aforementioned bus routes; and

WHEREAS, the Edina School District has withdrawn permission for the Metro Transit to use South View Middle School as a bus park and ride location.

NOW, THEREFORE BE IT RESOLVED that the Edina City Council hereby requests Metro Transit to immediately remove bus routes and bus stops from Concord Avenue and South View Lane.

Adopted this 5<sup>th</sup> day of June 2001. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Resolution adopted.

\*CLAIMS PAID Member Kelly made a motion and Member Hovland seconded the motion approving payment of the following claims as shown in detail on the Check Register dated May 16, 2001, and consisting of 35 pages: General Fund \$219,078.36; Communications Fund \$25,828.51; Working Capital Fund \$18,839.78; Art Center Fund \$3,118.94; Golf Dome Fund \$1,134.09; Aquatic Center Fund \$1,167.00; Golf Course Fund \$112,018.12; Ice Arena Fund \$15,196.33; Edinborough/Centennial Lakes Fund \$21,120.51; Liquor Fund \$111,026.58; Utility Fund \$254,546.49; Storm Sewer Fund \$682.95; Recycling Fund \$30,378.50; Payroll Fund \$485,000.00; TOTAL \$1,299,136.16; and the following claims as shown in detail on the Check Register dated May 23, 2001, and consisting of 29 pages: General Fund \$203,891.97; Communications Fund \$11,377.34; Working Capital \$1,524.68; Construction Fund \$5,564.73; Art Center Fund \$9,822.01; Golf Dome Fund \$200.00; Aquatic Center Fund \$5,858.79; Golf Course Fund \$28,458.70; Ice Arena Fund \$1,394.67; Edinborough/Centennial Lakes Fund \$4,737.81; Liquor Fund \$99,015.25; Utility Fund \$10,755.41; Storm Sewer Fund \$1,156.72; Recycling Fund \$109.00; HRA Fund \$185,000.00; TOTAL 568,867.08; and the following claims as shown in detail on the Check Register dated May 30, 2001, and consisting of 42 pages: General Fund \$166,960.81; Communications Fund \$87.25; Working Capital Fund \$1,424.03; Construction Fund \$240.00; Art Center Fund \$8,716.10; Golf Dome Fund \$1,049.00; Aquatic Center Fund \$9,707.83; Golf Course Fund \$44,512.79; Ice Arena Fund \$479.40; Edinborough/Centennial Lakes Fund \$9,869.27; Liquor Fund \$181,471.12; Utility Fund \$57,360.16; Recycling Fund \$10.06; Payroll Fund \$320,000.00; TOTAL \$801,887.82.

Motion carried on rollcall vote - five ayes.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 11:02 P.M.

---

City Clerk